



SAC/ITW

MS PETITION
Docket No.: 0020-5216P
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Kenji OHNISHI et al.

Application No.: 10/757,417

Confirmation No.: 3381

Filed: January 15, 2004

Art Unit: 1774

For: FIBER BOARD

Examiner: M. L. Dixon

PETITION UNDER 37 C.F.R. § 1.181
TO WITHDRAW THE HOLDING OF ABANDONMENT

MS Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Notice of Abandonment dated August 26, 2005, applicant hereby respectfully petitions under the provisions of 37 C.F.R. § 1.181 and MPEP § 711.03(c) for a decision to withdraw the holding of abandonment due to failure to receive the Notice of Allowance and Issue Fee.

The Notice of Abandonment dated August 26, 2005 indicates that this application was abandoned in view of the applicant's failure to pay the Issue Fee mailed on March 14, 2005.

However, the Notice of Allowance and Issue Fee was never received by the offices of the undersigned, and a search of the file jacket for the present application and the firm docketing records reveals that the Notice of Allowance of March 14, 2005 was never received. The offices of the undersigned did not become aware of the Notice of Allowance and Issue Fee until advised of the holding of abandonment.

1. EVIDENCE

The fact that the Notice of Allowance of March 14, 2005 was never received in the offices of Birch, Stewart, Kolasch & Birch, LLP is evidenced by Exhibits I and II attached hereto.

Exhibit I is a copy of the front page of the file jacket of Appl. No. 10/757,417 (which corresponds to Attorney Docket No. 0020-5216P). It is the policy in our office to record all information regarding Office Actions and responses on the front page of the file jacket. As the Petitions Examiner will note, there is no entry for the Notice of Allowance and Issue Fee dated March 14, 2005 on the front page of the file jacket of the above-referenced application.

Exhibit II is a copy of the computer-generated daily docket sheet(s) of Birch, Stewart, Kolasch & Birch, LLP for the date of June 14, 2005 (the due date for said Issue Fee), containing entries made by our Docketing Department of due dates in response to PTO actions. It is the policy of our offices to docket all due dates for Office Actions received from the USPTO into our computer docketing system.

Although Application Numbers, Titles, Client Names, and Inventor Names have been redacted from this Exhibit to avoid public disclosure of these matters once the present application is patented, it is still clear that there is no entry for the due date of June 14, 2005 which corresponds to the current application, Attorney Docket No. 0020-5216P.

The undersigned certifies that he has reviewed the computer-generated daily docket sheets for the due date of June 14, 2005 and did not locate an entry that corresponds to Appl. No. 10/757,417.

In fact, the reason for the non-receipt of the Notice of Allowability is the fact that it was mailed in error by the USPTO to “McQuire Woods LLP, 1750 Tysons Blvd., Suite 1800, McLean, VA 22102-4215”.¹ However, neither a revocation of Power of Attorney nor a change of address was ever filed in the name of “McQuire Woods LLP”. Further, Birch, Stewart, Kolasch & Birch, LLP, 8110 Gatehouse Road, Falls Church, VA 22042-1248” is , and remains the firm of record. Also, even though evidently misdirected, no Notice of Allowance was ever “forwarded” to the offices of Birch, Stewart, Kolasch & Birch.

2. TERMINAL DISCLAIMER

☒ The present application was filed on or after May 29, 2000. Accordingly, no Terminal Disclaimer is necessary. It is noted that the present Petition is being timely filed within two (2) months of the mailing date of the Notice of Abandonment. Accordingly, no reduction in patent term adjustment should be made, in accordance with the provisions of 37 C.F.R. § 1.704(c)(4).

☐ The present application was filed on or after June 8, 1995 but before May 29, 2000. The present Petition is being timely filed within two (2) months of the mailing date of the Notice of Abandonment. Accordingly, no Terminal Disclaimer under 37 C.F.R. § 1.321(a) is necessary. See MPEP § 711.03(c).

☐ The present application was filed on or after June 8, 1995 but before May 29, 2000. The present Petition is being filed more than two (2) months from the mailing date of the Notice of Abandonment. Accordingly, a Terminal Disclaimer under 37 C.F.R. § 1.321(a) and the required fee set forth in 37 C.F.R. § 1.20(d) are being submitted concurrently herewith. The period being disclaimed is equivalent to the period between (1) the date that is two months after the mail date of the notice of abandonment and (2) the filing date of the present petition to withdraw the holding of abandonment. See MPEP § 711.03(c).

¹ Likely this is a misspelling of McGuire Woods LLP

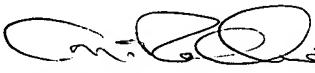
In view of the above-described facts, it is respectfully submitted that the abandonment of the present application was unavoidable and due solely to problems with mailing of a Notice of Allowance since the Notice of Allowance dated March 14, 2005 was never received in the offices of Birch, Stewart, Kolasch & Birch, LLP. The present Petition is timely filed for this purpose.

Since the above-mentioned Notice of Allowance was never received in the offices of the undersigned, it is believed that no petition fee is necessary in connection with this Petition.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fee required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: October 19, 2005

Respectfully submitted,

By  #42,874

Marc S. Weiner
Registration No.: 32,181
BIRCH, STEWART, KOLASCH & BIRCH, LLP
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P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant

Attachments

Monday, June 13, 2005

Due Date List By Floor

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Due Date	Action Due	Docket Number/SubCase	Status	App Number	App Date	Other
Indicator	Action Type	Country	Client	Pat Number	Iss Date	Atty's

Action Attorney(Attorney2): ADM ANDREW D. MEIKLE

14-Jun-2005 FIRST AMENDMENT

Due Date OAFI

0171-0973 /

United States of America

Published

16-May-2003 ADM

14-Jun-2005 ISSUE FEE-1 MONTH IF

0754-0191 /
United States of America

Published

16-Jun-2003 ADM

NOTED

Remarks: Pub. Fee

14-Jun-2005 AMENDMENT

Due Date OAI

2185-0669 /

United States of America

Published

17-Oct-2002 ADM

Slow Pay - See Managing Partner

14-Jun-2005 Information Disclosure Stmt

Due Date

3493-0147 / 1

United States of America

Pending

14-Mar-2005 ADM

Slow Pay - See Managing Partner

14-Jun-2005 Information Disclosure Stmt

Due Date

4731-0114 / 1

United States of America

Pending

14-Mar-2005 ADM

NOTED

Remarks: Int'l SR, French SR and English Abstracts rec'd by fax 5-26-05; originals rec'd 6-6-05

14-Jun-2005

Reminder

RESP-PAY ADDTL FEES DUE 2WKS

PCT FEES

5999-0518 / 1

Patent Cooperation Treaty

Pending

07-Jan-2005 ADM

NOTED

Remarks: See pay per Janet 5/31/05

14-Jun-2005

Reminder

Resp-Written Opin & Demand Ltr

PCT WRITTEN OPINION/DEMAND

5999-0518 / 1

Patent Cooperation Treaty

Pending

10-Dec-2004 ADM

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14-Jun-2005 To 14-Jun-2005

Due Date Indicator	Action Due Action Type	Docket Number/SubCase Country	Status Client	App Number Pat Number	App Date Iss Date	Other Atty's
14-Jun-2005	RESPONSE DUE 1 MONTH	5999-0523 / 1	Pending		16-Dec-2004	ADM

NOTED

Remarks: CHECK TO SEE IF WE NEED TO ADD INVENTOR

Action Attorney(Attorney2): DRM DAVID R. MURPHY

14-Jun-2005	FIRST AMENDMENT	0152-0645 /	Published		29-Jul-2003	GMM
Due Date	OAFI	United States of America				DRM

14-Jun-2005	IDS	0152-0645 /	Published		29-Jul-2003	GMM
Due Date	IDS2	United States of America				DRM

not filing - DMS subscription
 Remarks: ref rec'd via fax 5-31-05

Action Attorney(Attorney2): ETP EUGENE D. PEREZ

14-Jun-2005	AMENDMENT X	0216-0476 /	Published		27-Jun-2002	GMM
Due Date	OAI	United States of America				ETP

14-Jun-2005	ISSUE FEE	1731-0116 /	Pending		13-Sep-2002	MSW
Final	IF	United States of America				ETP

Remarks: Pub. Fee
 DIV
 E5/20/05--1731-0116PUS2

14-Jun-2005	FIRST AMENDMENT	2224-0210 / 2	Published		14-Apr-2004	GMM
Due Date	OAFI	United States of America				ETP

Action Attorney(Attorney2): FEE MAINTENANCE FEE

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Other Attys.

FEE

PCL

PCI

PCL

PCI

PCI

PCI

PCI

GMN

CAM

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14-Jun-2005

Remarks: Refs cited in spec rec'd from client 4-20-05

Do you?

14-jun-2005 To 14-jun-2005

Due Date Indicator	Action Due Action Type	Docket Number/SubCase Country	Status Client	App Number Pat Number	App Date Iss Date	Other Atty's
14-Jun-2005 Reminder	Order Certified Copies Certified Copies	1422-0596 / United States of America	Granted	[REDACTED]	24-Jul-2003 07-Jun-2005	JWB JWB
14-Jun-2005 Final	RESPONSE RS	4000-0120 / United States of America	Active	[REDACTED]	25-May-2005	JWB LIT RCS RG
<p><i>Handling</i></p> <p>NOTED</p> <p>Remarks: JR. PARTY GUGUMUS TO RESPOND TO ORDER TO SHOW CAUSE (otherside)</p>						
14-Jun-2005 Final	RESPONSE RS	4000-0120 / United States of America	Active	[REDACTED]	25-May-2005	LIT JWB RCS RG
<p>NOTED</p> <p>Remarks: JR. PARTY GUGUMUS TO RESPOND TO ORDER TO SHOW CAUSE (otherside)</p>						
<p>Action Attorney(Attorney2): LRS LEONARD R. SVENSSON</p>						
14-Jun-2005 Final	FIRST AMEND XXX OAFI	4614-0109 / United States of America	Pending	[REDACTED]	19-Feb-2002	LRS LRS
14-Jun-2005 Reminder	IDS Reminder Information Disclosure Stmt	4986-0103 / United States of America	Pending	[REDACTED]	14-Apr-2005	LRS LRS
<p>Action Attorney(Attorney2): MAA MARYANNE ARMSTRONG</p>						
14-Jun-2005 Reminder	CONVERT PROV-6 Month call-up File Application	0471-0289 / United States of America	Pending	[REDACTED]	14-Dec-2004	MAA MAA
<p>NOTED</p>						

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14-Jun-2005

To

14-Jun-2005

Due Date Indicator	Action Due Action Type	Docket Number/SubCase Country	Status Client	App Number Pat Number	App Date Iss Date	Other Atty's
14-Jun-2005 Reminder	Foreign Filing FFNEW	0471-0289 / 1 United States of America	Pending	[REDACTED]	14-Dec-2004	MAA MAA
14-Jun-2005 Reminder	Foreign Filing-6Month Foreign Filing	0471-0289 / 1 United States of America	Pending	[REDACTED]	14-Dec-2004	MAA MAA
14-Jun-2005 Final	NOA XXX NOA	1377-0174 / United States of America	Pending	[REDACTED]	31-Jan-2002	MAA MAA
14-Jun-2005 Due Date	FDOPCOA Follow Up Date FDOPCOA	4308-0101 / European Patent Convention	Published	[REDACTED]	23-Oct-1998	ADM MAA
Slow Pay - Sec Managing Partner		Remarks: 2/22/05 FAX FROM ASSOC. REQ. ORIGINAL POWER OF ATTY. FOR SPAIN, GREAT BRITAIN AND ITALY Sent per Sam 3/14/05				
14-Jun-2005 Final	Action Attorney(Attorney2): PCT PRIOR ART DUE PRIOR ART	0175-0331 / European Patent Convention	Pending	[REDACTED]	03-Feb-2004	MSW MSW
Slow Pay - Sec Managing Partner		Remarks: per d sheet 6/7/04, per Ying 8/6/04, 9/7/04, per d sheet 10/7/04, 11/9/04, 12/7/04, 1-7-05, 2/7/05, 3/7/05, 4/7/05, 5/6/05, 5/13/05				
14-Jun-2005 Final	PRIOR ART DUE PRIOR ART	0485-0205 / Israel	Pending	[REDACTED]	20-Nov-2002	GMM CAM
14-Jun-2005 Final	PRIOR ART DUE PRIOR ART	Remarks: OR WHEN FILING REQUEST EXAMINATION, per d sheet 5/17/04, 6/17/04, 7/16/04, 8/17/04, 9-17, 10/15/04, 11/17/04, 12/17/04, 1/14/05, 2/17/05, 3/17/05, per Janet 3/24/05, per d sheet 3/31/05, 4/7/05, 5/6/05, 5/13/05				

NOTED

NOTED

Redacted for 6-15-05

DMS submitted

Redacted for 7/14/05

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Donor: 37

14-Jun-2005

Due Date	Action Due	Docket Number/SubCase	Status	App Number	App Date	Other
Indicator	Action Type	Country	Client	Pat Number	Iss Date	Atty's
14-Jun-2005	REQUEST FOR EXAMINATION DUE	1173-1037 / 1	Pending	[REDACTED]	07-Jan-2002	DRN
Final	REQEXAM	Canada	[REDACTED]	[REDACTED]		DRN
14-Jun-2005	PRIOR ART DUE	1423-0496 /	PENDING	[REDACTED]	16-Jan-2001	CG
Final	PRIOR ART	Canada	[REDACTED]	[REDACTED]		CG
Slow Pay - Sec Managing Partner	EX 1 MD	Remarks: per d sheet 6/7/04, per Ying 8/6/04, 9/8/04, per dsheet 10/7/04, 11/5/04, 12/7/04, 1-7-05, 2/7/05, 3/7/05, 4/7/05, 5/6/05, 5/13/05				
14-Jun-2005	PRIOR ART DUE	2153-0103 /	PENDING	[REDACTED]	28-Jul-2000	KM
Final	PRIOR ART	Canada	[REDACTED]	[REDACTED]		KM
Slow Pay - Sec Managing Partner	EX 1 MD	Remarks: per d sheet 6/9/04, 10/8/04, 11/8/04, 12/8/04, 1-7, 2/7/05, 3/7/05, 4/7/05, 5/6/05, 5/13/05				
14-Jun-2005	PRIOR ART DUE	3613-0104 /	Pending	[REDACTED]	04-Sep-2002	KM
Final	PRIOR ART	Australia	[REDACTED]	[REDACTED]		KM
14-Jun-2005	REQUEST EXAM DUE - 1 MONTH	4022-0103 /	Pending	[REDACTED]	22-Jan-2002	PCL
Reminder	REQEXAM	Korea, Republic of	[REDACTED]	[REDACTED]		PCL
Slow Pay - Sec Managing Partner	NOTED					
14-Jun-2005	PRIOR ART DUE	4022-0150 / 1	Pending	[REDACTED]	28-Oct-2004	PCL
Final	PRIOR ART	Australia	[REDACTED]	[REDACTED]		PCL
Slow Pay - Sec Managing Partner	EX 1 MD	Remarks: per d sheet 3/31/05, 4/7/05, 5/6/05, 5/13/05				
Action Attorney(Attorney2):	RCS	RAYMOND C. STEWART				

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14-Jun-2005 To 14-Jun-2005

Due Date Indicator	Action Due Action Type	Docket Number/SubCase Country	Status Client	App Number Pat Number	App Date Iss Date	Other Atty's
14-Jun-2005	RESPONSE	4000-0120 /	Active			25-May-2005 RCS
Final	RS	United States of America				JWB LIT RG

NOTED

Remarks: JR. PARTY CUGUMUS TO RESPOND TO ORDER TO SHOW CAUSE (otherside)

Action Attorney(Attorney2): RG RICHARD J. GALLAGHER

14-Jun-2005	ISSUE FEE	0425-0950 /	Published		08-Aug-2002	RCS
Final	IF	United States of America				RG

Xerox

Remarks: Pub. Fee
DIV
f.3/22/05--0425-0950PUS2

14-Jun-2005	APPEAL BRIEF	1781-0243 /	Published		07-Jun-2002	DRN
Due Date	AB	United States of America				RG

Slow Pay - See Managing Partner

14-Jun-2005	FIRST AMENDMENT	2815-0194 /	Published		01-Jul-2002	GMM
Due Date	OAFI	United States of America				RG

14-Jun-2005	REQUEST HEARING-LAST DAY	2929-0193 /	Pending		10-Dec-2002	DRA
Final	RH	United States of America				RG

Not Needed

Slow Pay - See Managing Partner
Remarks: Examiner's Answer mailed 4-14-05

14-Jun-2005	SPECIAL LETTER	3273-0156 /	Published		30-May-2002	GMM
Reminder	SPLI	United States of America				RG

14-Jun-2005	SPECIAL LETTER	3273-0157 /	Published		30-May-2002	GMM
Reminder	SPLI	United States of America				RG

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14-jun-2005 To 14-jun-2005

Due Date Indicator	Action Due Action Type	Docket Number/SubCase Country	Status Client	App Number Pat Number	App Date Iss Date	Other Atty's
14-Jun-2005 Final	RESPONSE RS	4000-0120 / United States of America	Active [REDACTED]		25-May-2005	RG JWB LIT RCS
Remarks: JR. PARTY GUGUMUS TO RESPOND TO ORDER TO SHOW CAUSE (otherside)						
14-Jun-2005 Due Date	FIRST AMENDMENT OAF1	4710-0105 / United States of America	Published [REDACTED]	[REDACTED]	08-Jan-2004	GMM RG
Action Attorney(Attorney2): SBA Sandy B. Astor						
14-Jun-2005 Due Date	TO BE FILED TBF	5055-0101 / 1 United States of America	Unfiled [REDACTED]			SBA SBA
Remarks: DUE DATE, dm 12-14-04,5/13						
Action Attorney(Attorney2): SBB SUSAN B. BLASCO						
14-Jun-2005 Final	Resp to Off. Action Due 1 Week Foreign Office Action	L4069-01397 / 1 Russian Federation	Pending [REDACTED]	[REDACTED]	30-Sep-2004	TMS SBB
Slow Pay - See Managing Partner						
Action Attorney(Attorney2): SWG SUSAN W. GORMAN						
14-Jun-2005 Due Date	SEQUENCE REQ XXXX SR	2750-1578 / 2 United States of America	Pending [REDACTED]	[REDACTED]	23-Sep-2004	LRS SWG
Remarks: NTFMP mailed 12/14/04 sequence listing						
Slow Pay - See Managing Partner						
14-Jun-2005 Due Date	PERFECT FIL XXXX PF	2750-1578 / 2 United States of America	Pending [REDACTED]	[REDACTED]	23-Sep-2004	LRS SWG
Remarks: NTFMP mailed 12/14/04 oath or dec. due						
Slow Pay - See Managing Partner						

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14-Jun-2005 To 14-Jun-2005

Due Date Indicator	Action Due Action Type	Docket Number/SubCase Country	Status Client	App Number Pat Number	App Date Iss Date	Other Atlys
14-Jun-2005	ISSUE FEE	3871-0103 / United States of America	Published		26-Feb-2003	LRS
Final	IF					SWG

Remarks: PUB FEE

Action Attorney(Attorney2): TK TOYOHICO KONNO

14-Jun-2005	AMENDMENT XXX	2185-0654 / United States of America	Published		03-Jul-2002	JWB
Final	OAI					TK

Filing

Slow Pay - See Managing Partner

ATTY.

msw/cmm

PATENT NO.

ISSUED

PTA:

DAYS

BIRCH, STEWART, KOLASCH & BIRCH, LLP

MONTHLY BILLED CLIENT

NO

SMALL

ENTITY

(FILED)

CLIENT COPIES

CONFIRMATION NO.:

3381

SUPPLEMENTAL VOLUME(S)

INVENTOR

Kenji Ohnishi, Masayuki Okuzawa, Yuizo Okudaira, It
Ando, Kazunori Umeoka, Ryo Sugawara, Bunkai Ryu

TITLE

Fiber Board

APPLICATION NO.

10/757,417

FILED:

1-15-04

PRIORITY CLAIMED

APR 29 2004

RECLAIMED

DRWGS. NO. OF SHEETS

50A

FOREIGN CASES

Japan

2003-096844

Mar. =

Japan

2003-096846

Mar. =

PTO ACTIONS

CALL-UP

RESPONSES

Prelim. Exam
Perfect Filing1/15/04
8-19-04

APR 29 2004

OA 9-22-04

Amendment
12-22-04

Filed 12-20-04

ASSIGNMENT

PARENT/OFFSPRING

FILED IN PTO

4-29-04

TO

Matsushita Electric Works, Ltd.

ADDRESS

Osaka, Japan

RECORDED

4-29-04

REEL

15276

FRAME(S)

48
50

0020-52